

Victim Law Day: Seeking Justice for Victims and Enforcing their Rights

Friday, November 15, 2019
APAAC Training Room
1951 W Camelback Rd., Unit 202,
Phoenix, Arizona



Making Cents Out of Restitution

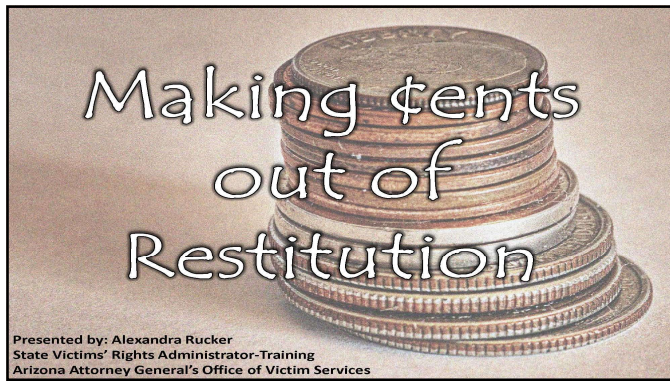
Presented by:

Virginia Rodriguez
State Victims' Rights Outreach Coordinator

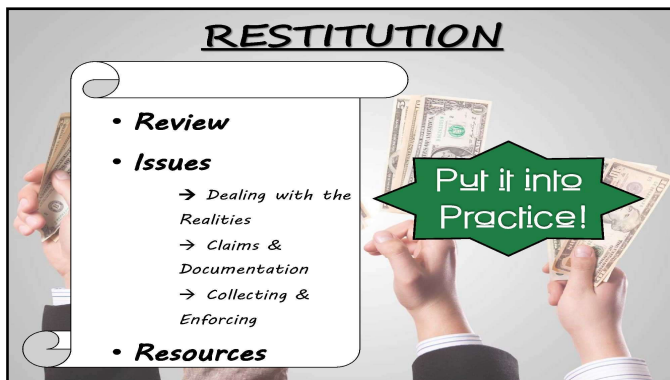
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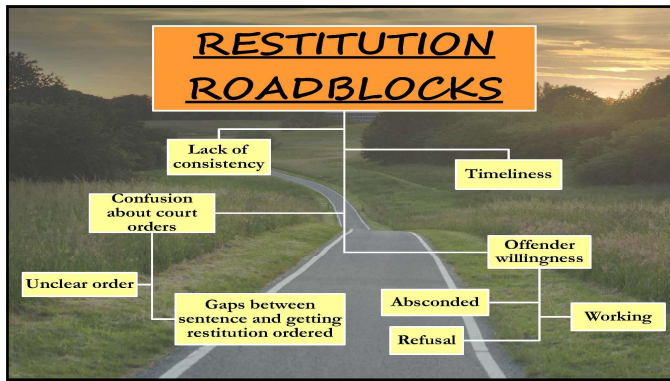
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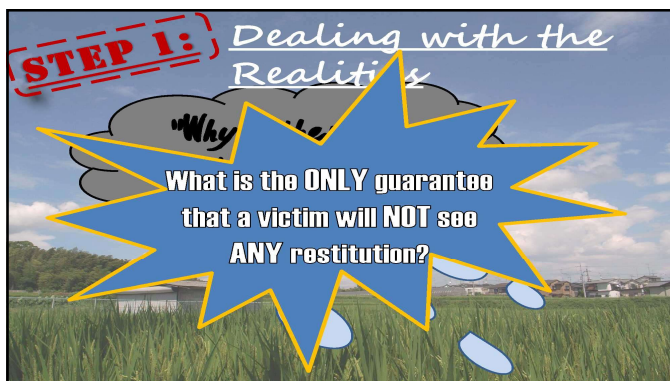
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HALT!

Legislative Update!

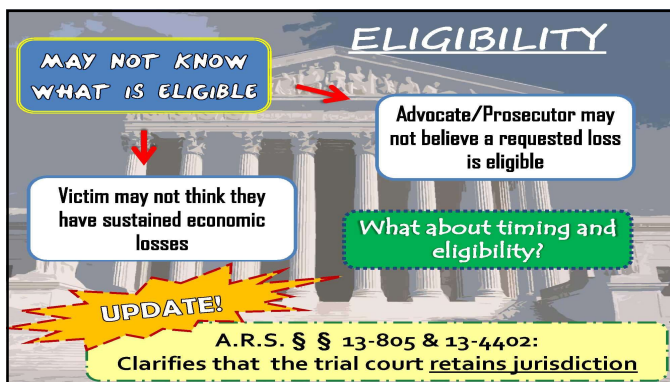
A.R.S. § 13-806 –
Amended to allow a victim to request a pre-conviction restitution lien

Note: May not be appropriate for all cases.

A.R.S. § 13-4408 –
Amended to require Prosecuting agencies notify victims of this right.

***If acquittal or dismissal, the Court is responsible for releasing any pre-conviction lien.**

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ELIGIBILITY

MAY NOT KNOW WHAT IS ELIGIBLE

Victim may not think they have sustained economic losses

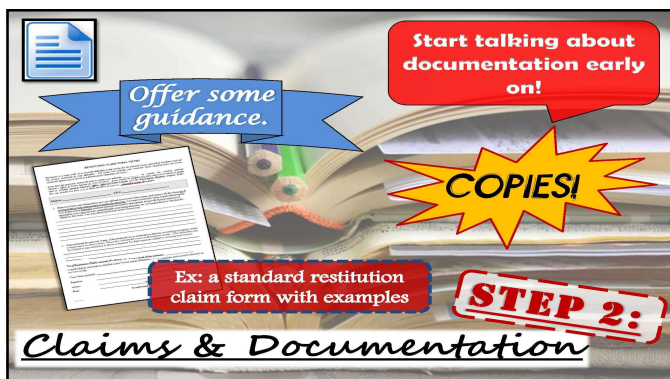
Advocate/Prosecutor may not believe a requested loss is eligible

What about timing and eligibility?

UPDATE!

A.R.S. § § 13-805 & 13-4402:
Clarifies that the trial court retains jurisdiction

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Offer some guidance.

Start talking about documentation early on!

COPIES!

Ex: a standard restitution claim form with examples

STEP 2:

Claims & Documentation

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...DOCUMENTATION

Don't assume that a victim is going to be aware of/consider all of their economic losses!

Insurance Company Involved?
• May think they cannot ask for restitution

There is a first time for everything...

EXAMPLES OF DOCUMENTATION

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Collecting and Enforcing

STEP 3:

So, it is time to get your restitution order...
This is just the beginning...

Is a Criminal Restitution Order (CRO) being requested?

If not, let's talk liens...

A.R.S. § 13-806 (B), ...shall be signed by a judge or prosecutor

Restitution Liens
A.R.S. §13-806(A)

- Real Property (County Recorder)
- Titled Motor Vehicles (Department Of Transportation)
- Personal Property (Secretary Of State)

Any person entitled to restitution

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Criminal Restitution Order (CRO)

Special type of lien ordered by the Court

Adult Offense: May be entered at time the original restitution order is made
Juvenile Offense: Entered when the delinquent turns 18

CRO Benefits


- Doesn't expire and doesn't need to be renewed
- Collects interest at 10% annually
- Enforceable as a civil judgement

CAN BE FILED WITH:
County Recorder
Secretary of State
Department of Transportation

A.R.S. §§13-805; 8-344

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Eliminate Variables



UPDATE!

A.R.S. § 13-810(G): On request, victims shall be provided a copy of the defendant's payment history from the Clerk's office for free.


✓ Checking the defendant's custodial status

Check ADC Web.

✓ Victim information up to date with the Clerk of the Court

Check with Court/PO.

Check with Clerk's Office.



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Upon becoming delinquent 4 full payments...

Probation Court:

-
-
-

w/Specific Reasons

REVIEW HEARING?

Victims

State

May File Objection within 10 days of notice

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Petition for Order to Show Cause

Petition for Order to Show Cause
A.R.S. §13-810(B)

Can be requested by victim or prosecutor

Examines defendant's ability to pay


May lead to an Order to Show Cause Hearing



Petition for OSC Template available on azcourts.gov!

Can look at:

- ✓ Willful Non-compliance
- ✓ Intentional refusal to make good faith efforts



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Then What?

If Court finds defendant has willfully failed to pay restitution the Judge may:

- Incarcerate until balance paid
- Revoke
- Garnish wages pursuant to A.R.S. § 13-812
- Order community restitution

A.R.S. § 13-810(E)

Petition for Change of Manner of Payment
A.R.S. § 13-804(M)

Any person entitled to restitution may petition the court at any time to change the manner in which the restitution is paid.

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What can you do?

Educate Yourself!

Let's not just pass the buck!

- ✓ Be familiar with general process
- ✓ Be aware of resources
- ✓ Use the tools in your toolbox!

Be Willing to Educate Others!

- Victim
- Prosecutor
- Probation Officer
- Court

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Additional Legal Assistance

Victims' Rights Enforcement Attorneys

- Arizona Crime Victims Rights Law Group
 - Arizona Voice for Crime Victims
- Arizona Coalition to End Sexual & Domestic Violence
- National Crime Victim Law Institute (NCVI)
 - The Never Again Foundation

azcourts.gov → Self Help → Victims Restitution Resources

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Other Means of Financial Recovery...

Independent of the criminal case

- Do not require prosecution
- May have time restrictions

Victim Compensation
Aid that does not require an arrest or prosecution, but does have eligibility requirements.

Civil Remedies
An order of restitution does not stop a victim from seeking civil remedies.

ARS §§ 13-807; 8-350.02; 12-511

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Who's Who?

AZAG Office of Victim Services
602-542-4911
ovstral@azag.gov

ACTIVITY!

ACJC
(County where the Crime Occurred)
OR
<http://www.azcjc.gov>

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